

Verne, B. Michael

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From: [REDACTED]
Sent: Tuesday, April 05, 2005 4:28 PM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: HSR- Hypothetical Questions

Mike,

I have included below some broadly worded hypothetical situations for which I would like to discuss the potential HSR applicability. As we discussed, [REDACTED] and I will call you tomorrow at 1:00 pm to discuss these questions and certain more specific follow-up questions. Thank you, in advance, for your time in reviewing these questions and agreeing to speak with us tomorrow.

1. If a Company acquires the only income generating asset of a non-corporate entity (i.e., a completed film or television project, herein "Film"), but it does not acquire the shares of the non-corporate entity itself, does HSR apply?
2. If a Company acquires a completed Film from a foreign non-corporate entity, where is the Film "located" for purposes of the HSR foreign exemption? Is the location of the master negative critical?
3. How do you measure the Film's value? Should the value of the Film be measured according to the governing agreement so that if the agreement says the price will be the Film's production cost, that is the value even if the Film later proves to be a popular success capable of generating revenues far exceeding production cost?
4. If a Company wants to take a security interest in the Film copyright, the physical materials as they come into existence, the production bank account (all of which is commonly included in the definition of "collateral"), and the shares of the foreign entity producing the Film, is the mere taking of the security interest in the foreign entity an HSR trigger event? If not, what is the result if the Company elects to foreclose on its security interest including full ownership of the foreign entity?
5. If a Company loans a foreign entity 100% of the funds needed to produce the Film (which will be the sole income-producing asset of the entity), is that loan considered an ownership interest? It is probably safe to assume the Company will always seek to create a security interest which allows the Company to foreclose on the Film in full (often the only income generating asset) in the event of a defined set of trigger events (including dissolution of the entity itself).
6. If the Company makes a loan of more than 50% of the Film's production budget, but less than 100% of the budget, if the Film is the only income-generating asset belonging to the entity, is the Company the owner to the extent of its loan?
7. If the Company is asked to accept transfer of ownership of the foreign entity (for example, a partnership), instead of receiving a transfer of the Film being produced by the entity, does that transfer of the foreign entity trigger an HSR filing?

Best regards,

[REDACTED]

ADVISED THAT THE NON-CORPORATE ENTITY NEVER HAS BENEFICIAL OWNERSHIP OF ANY OF THE ASSETS. N-OVERLA CONCERN.

[Signature]
4/6/05